

## REMARKS

Claims 1-8 are pending in the application. Claims 1-8 stand rejected. Claims 1, 2 and 3 have been amended. No new matter has been introduced by these amendments.

### Reply to the Objection to the Drawings

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a). Specifically, the Examiner states that the following features must be shown or canceled from the claims –

- a) “said warning triangle in the fold-up position” as stated in line 5 of claim 1;
- b) “one of three legs of said warning triangle” as stated in line 2 of claim 2, and;
- c) “right angles to a road surface” as stated in line 2 of claim 7.

The Examiner has further objected to the drawings under 37 C.F.R. § 1.83(a). Specifically, the Examiner considers the following descriptions found in the specification to be structural details that are essential for a proper understanding of the disclosed invention –

- a) “warning triangle in its fold-up position” (page 2, line 14);
- b) “alternative embodiment (not shown)” (page 3, line 26);
- c) “three legs” (page 3, line 29);
- d) “triangle when deployed (not shown)” (page 3, lines 29-30);
- e) “oriented at right angles to a road surface (not shown)” (page 4, line 15), and,
- f) “that side of the leg of the warning triangle” (page 4, line 19).

For the following reasons, Applicants respectfully traverse the Examiner’s objection to the drawings.

With respect to claim and Specification objections a), a warning triangle (element 2) that has been folded up is already shown in Figures 1 and 2. With respect to claim objection b), a warning surface (element 7) situated on at least one of the three legs of the warning triangle 2 is likewise already illustrated in Figures 1 and 2. With respect to Specification objection f), that side of the leg of the warning triangle is already illustrated in Figure 1 (it is noted that the sentence on page 4, line 19 begins with “In the embodiment shown in Figure 1”).

With respect to claim objection c) and Specification objections b-e), Section 113 of the Code requires an Applicant to “furnish a drawing where necessary for the understanding of

**the subject matter to be patented**" (emphasis added). Section 113 further states that when the Specification indicates that an illustration by drawing is provided yet none is provided, such an illustration must be provided, even if the drawing is NOT necessary for the understanding of the invention. Accordingly, from Section 113 it can be inferred that if the Specification specifically states that a drawing is not provided (e.g., "not shown"), and if such a drawing is NOT necessary for the understanding of the subject matter to be patented, such drawing should NOT be required.

Specification objections b), c) and e) specifically state that those features are "not shown" because they are not necessary for an understanding of the subject matter to be patented. Referring to Specification objection b), Applicants assert that one UNskilled in the art can refer to Figures 1-3 wherein two warning triangles 2 are illustrated and understand what is intended in the alternative embodiment of just one warning triangle 2. With respect to claim objection c) and Specification objections c) and e), Applicants assert that the use of warning triangles as highway and roadside warning indicators are common and well known, even to those unskilled in the present art of motor vehicles. Those skilled and unskilled in the art readily understand and recognized that those indicators typically stand at a substantially right angle to the road (claim objection c and Specification objection e), and that the indicators typically have three legs (Specification objection c). Further, the triangle shape is a universally recognized warning indicator (Specification objection d). Accordingly, Applicants assert that the structural details requested by the Examiner are NOT necessary for an understanding of the subject matter to be patented, and the application specifically states that they are not shown; therefore, the drawings should not be required.

It is believed that the above remarks overcome the Examiner's objection to the drawings. Withdrawal, therefore, of the objections to the drawings is respectfully requested.

#### **Reply to the Objection to the Specification**

The Examiner has objected to the Abstract of the disclosure for various informalities. Specifically, the Examiner states –

- a) change "folded-up warning triangle" to "fold-up warning triangle" on page 8, lines 5 and 8, and;
- b) confusing language, on page 8, lines 4-6.

Further, the Examiner has objected to the disclosure for various informalities. Specifically, the Examiner states –

- a) on page 1, line 27, change from “Such trunk” to “Such a trunk”;
- b) on page 1-4, change “folded-up” to “fold-up”
- c) on page 3-5, bold type font of place parentheses around all the reference numerals

Finally, the Examiner has objected to the Title as not being descriptive.

The Abstract, Specification and Title have been amended to correct the various informalities noted by the Examiner with the exception of disclosure objection c) above. For the Examiner’s edification, the Office prints reference numerals in bold when printing a patent. An application is only required to provide reference characters that are “properly applied”, *i.e.*, no single reference character can be used for two different parts or for a given part and a modification of such part. There is no requirement under the Code, Rules or MPEP that the reference numerals in an application be bold and/or in parentheses (see MPEP § 608.01(g)). Withdrawal, therefore, of this objection to the disclosure is respectfully requested.

It is believed that the above amendments and remarks overcome the Examiner’s objections to the Specification. Withdrawal of the objections to the Specification is therefore respectfully requested.

#### **Reply to the Objection to the Claims**

The Examiner has objected to Claims 1, 3 and 8 for various informalities. Specifically, the Examiner states –

- a) claim 1, in line 5, “folded-up” should read “fold-up”;
- b) claim 3, in line 1, “folded-up” should read “fold-up”;
- c) claim 3, in line 2, “said edge portion of said hatch” should read “said boundary edge of said hatch”;
- d) claim 8, in line 2, “said edge portion of said hatch” should read “said boundary edge of said hatch”.

Applicants have amended Claims 1 and 3 as noted by the Examiner with respect to items a) and b). However, regarding items c) and d), Applicants respectfully disagree and direct the Examiner’s attention to Figure 1. Element 3 represents the “boundary edge” of the vehicle,

element 5 represents the “rear hatch” and element 6 represents the “edge portion” of the hatch (see also, paragraph 0014 of the Specification). As illustrated, the boundary edge and the edge portion refer to two distinctly different parts of the vehicle. Further, it can be seen that the boundary edge 3 is not part of the hatch 5. Accordingly, it would be incorrect to amend Claims 3 and 8 as indicated by the Examiner with respect to items c) and d) above. It is believed that these amendments and remarks overcome the Examiners objections to Claims 1, 3 and 8. Withdrawal of the objection is respectfully requested.

**Reply to the Rejection of Claims 1-8 under 35 U.S.C. § 103(a)**

The Examiner has rejected Claims 1-8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,353,111 to Gallitzendörfer *et al.* (“Gallitzendörfer”) in view of U.S. Patent No. 6,160,475 to Hornung *et al.* (“Hornung”). Specifically, the Examiner states –

Gallitzendörfer discloses a motor vehicle with a rear hatch comprising:

- a) an opening having a boundary edge and covered by a hatch (Fig. 1, body end member 1), said hatch being arranged so that it can move between a closed position and an open position (Fig. 1); and wherein said warning device (Fig. 1, lighting elements 5) is secured in an edge portion of said hatch bearing against the boundary edge of the opening in the closed position of said hatch such that a warning surface of said warning triangle is visible to other traffic when said hatch is in its open position (Fig. 3);
- b) said warning surface is situated on the warning device (Fig. 3);
- c) said warning surface is oriented essentially at right angles to a road surface (Fig. 3) used by the vehicle when said hatch is in its opened position.

Gallitzendörfer does not disclose two warning triangles in the folded-up position, said fold-up warning triangles are releasably fitted in a recess in said boundary edge of said hatch, said recess having a wall interrupted by at least one triangle shaped hole(s) through which said warning surface is visible to other traffic when said hatch is in its open position.

With respect to two warning triangles, Hornung et al. teach a warning lighting device in the door of a vehicle that consists of two warning triangles in the folded-up position (Fig. 1), said fold-up warning triangles are releasably fitted in a recess in said boundary edge (Fig. 3) of said hatch, said recess having a wall (Fig. 3, layer 11) interrupted by at least one triangle shaped hole(s) (Fig. 1) through which said warning surface is visible to other traffic when said hatch is in its open position (column 2, lines 8-11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further

modify the motor vehicle with a rear hatch of Gallitzendörfer, so as to replace Gallitzendörfer's warning device (lighting elements 5), with the warning triangles, as taught by Hornung et al., in order to amplify the warning effects for following traffic.

For the following reasons, Applicants respectfully traverse the Examiner's rejection of Claims 1-8 as being unpatentable over Gallitzendörfer in view of Hornung.

Gallitzendörfer teaches a motor vehicle having a rearward swing-up body member, or rear hatch 1 having lights 5 mounted on the edge portion (col. 2, lines 27-46). The lights or lighting elements 5 are provided with downwardly directed light-emitting areas 8 that, when the hatch 1 is swung open, the lights 5 are disposed approximately vertically so as to ensure that the lighting elements 5 are fully recognizable from the rear with the hatch 1 open (col. 2, lines 50-56). Still, Gallitzendörfer does not disclose an edge portion of the hatch that is able to secure a fold-up warning triangle in a folded-up position. Accordingly, Gallitzendörfer alone does not teach or suggest the presently claimed invention.

Hornung discloses a lighting device in the door 2 of a vehicle. The lighting device includes a door light 4 provided in a vehicle door 2. The door light source 6 is covered by a multiple-layer construction of a trim 3. The outer side of a transparent plastic wall 13 facing the inner compartment of the vehicle is covered by a light permeable decorative layer 10 formed by an outer light permeable painted covering layer 11 and a painted layer 12. A light impermeable layer is provided between the decorative layer 10 and the plastic wall 13 (Abstract). Hornung, like Gallitzendörfer, does not disclose an edge portion of the hatch that is able to secure a fold-up warning triangle in a folded-up position. As such, Hornung does not add to Gallitzendörfer.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). The invention of independent claim 1 is plainly directed towards a motor vehicle that is able to carry a removable fold-up warning triangle. The vehicle as claimed must have an opening with a boundary edge; a hatch for covering the opening and that is arranged so that it can move between a closed position and an open position; and an edge portion of the hatch that is able to secure a fold-up warning triangle in a folded-up position, where the edge portion bears against the

boundary edge of the opening when the hatch is closed. Further, the vehicle as claimed must position the reflector material carried by the fold-up warning triangle so that it reflects or is visible to other traffic when the hatch is open. As neither Gallitzendörfer nor Hornung, alone or in combination, teach or suggest a motor vehicle having an edge portion of the hatch that is able to secure a fold-up warning triangle in a folded-up position, neither Gallitzendörfer nor Hornung, alone or in combination, render the presently claimed invention obvious.

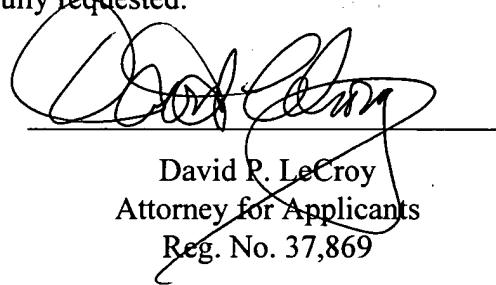
If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending there from is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). As independent claim 1 is nonobvious as shown above, dependent claims 2-8 are nonobvious.

It is believed that these remarks overcome the rejection of Claims 1-8 under 35 U.S.C. § 103(a). Withdrawal of this rejection, therefore, is respectfully requested.

It is believed that the above amendments and remarks overcome the Examiner's objections and rejections of the claims under 35 U.S.C. § 103(a) as indicated herein above. Withdrawal of the rejections is therefore respectfully requested. Allowance of the claims is believed to be in order, and such allowance is respectfully requested.

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